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Francis J. Smith
Patent Application NO. 10/603,798

1/27/2007

To: Steven Brantley
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United States Patent and Trademark Office
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OFFICE OF PETITIONS

From: Francis J. Smith (inventor representing self)
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Subject: Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action (MPEP 711.03(c) II and 37 CFR& 1.181); Patent Application No. 10/603,798, filing date 06/24/2003

Dear Sir,

Pursuant to our telephone conversation on 25 January 2007, I am writing to submit a petition to withdraw holding of abandonment based on failure to receive office action (MPEP 711.03(c) II and 37 CFR& 1.181). I submitted a change of address letter to the United States Patent and Trademark Office in September 2005 and later submitted a faxed version (as confirmed by your office).

From my conversation with your office, in September 2006, the PTOL-85 office action was sent to my old address at 877 Turino Street, Livermore, California. I never received it.

On 23 October, 2006, I spoke with Mr. Kevin Kim, Primary Patent Examiner and he requested my permission to make some changes to the claims to correct some minor issues so the patent could be allowed. I concurred with his requests. He told me he would send the changes in writing to document our conversation and he sent a letter on 25 October 2006. This letter was also sent to the old address. I called Mr. Kim several times to ask when the letter would be sent, and after a few calls, we determined that it had been sent to the old address. The letter was re-sent to me on 20 November 2006.

In the correspondence of 20 November 2006, the PTOL-37 (rev.08-06) stated that "if not included herewith (or previously mailed), a Notice of Allowance (PTOL)-85 or other appropriate communications will be mailed in due course". I had no indication that the PTOL-85 had ever been mailed, so I was waiting for the correspondence when I received the Notice of Abandonment. My understanding from my conversations with Mr. Kim was that I had to agree to the changes before the patent could be allowed, so I had no reason to anticipate that the PTOL-85 had been previously sent.

Thank you for your time and assistance in this matter. When you receive this, you can call me or send me an e-mail to confirm I have satisfied all requirements for the petition. If not, please let me know.

Sincerely,

